



September 28, 1999

Ms. Shelly Doty
Records Manager
City of Cleburne
P.O. Box 677
Cleburne, Texas 76033-0677

OR99-2724

Dear Ms. Doty:

You ask whether certain information is subject to required public disclosure under the, Texas Public Information Act, chapter 552 of the Government Code. Your request was assigned ID# 128256.

The City of Cleburne (the "city") received a request for a particular police report. You assert that the requested report is excepted from disclosure based on section 552.101 in conjunction with the common-law right to privacy and the constitutional right to privacy.

Section 552.101 of the Government Code excepts from required public disclosure information considered to be confidential by law, including information made confidential by judicial decision. This exception applies to information made confidential by the common-law right to privacy. *Industrial Found. v. Texas Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). Information may be withheld under section 552.101 in conjunction with the common-law right to privacy if the information contains highly intimate or embarrassing facts about a person's private affairs such that its release would be highly objectionable to a reasonable person and if the information is of no legitimate concern to the public. *See id.*

Section 552.101 also incorporates the constitutional right to privacy. *See id.* The United States Constitution protects two kinds of individual privacy interests: (1) an individual's interest in independently making certain important personal decisions about matters that the United States Supreme Court has stated are within the "zones of privacy," as described in *Roe v. Wade*, 410 U.S. 113 (1976) and *Paul v. Davis*, 424 U.S. 693 (1976). The "zones of privacy" implicated in the individual's interest in independently making certain kinds of decisions include matters related to marriage, procreation, contraception, family relationships, and child rearing and education. The second individual privacy interest that implicates constitutional privacy involves matters outside the zones of privacy. To determine

whether the constitutional right to privacy applies, this office applies a balancing test, weighing the individual's interest in privacy against the public right to know the information. *See* Open Records Decision No. 455 (1987).

We have reviewed the report at issue. We agree that portions of the report are protected from public disclosure on privacy grounds and have marked the report accordingly. *See id.* Accordingly, the city must withhold the marked, private information from the requestor based on section 552.101 of the Government Code. You must release the remaining information.

We are resolving this matter with this informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and may not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,



Kay H. Hastings
Assistant Attorney General
Open Records Division

KHH/nc

Ref.: ID# 128256

Encl. Submitted documents

cc: Mr. Dean Cunningham
206 Redbird Court
Joshua, Texas 76058
(w/o enclosures)